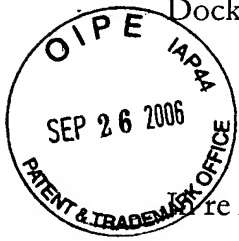


Docket No.: K-0382

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

Re Application of

Confirmation No.: 3073

Byung Cheon LEE

Group Art Unit: 2662

Serial No.: 10/029,302

Examiner: Sol, Anthony M.

Filed: December 28, 2001

Customer No.: 34610

For: METHOD OF CONVERTING ATM CELLS IN ATM NETWORK SYSTEM

**TRANSMITTAL OF APPEAL BRIEF**

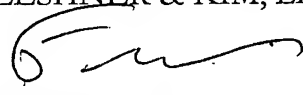
U.S. Patent and Trademark Office  
Customer Window, Mail Stop Appeal Brief-Patents  
Randolph Building  
401 Dulany Street  
Alexandria, Virginia 22314

Sir:

Submitted herewith is Appellant(s) Appeal Brief in support of the Notice of Appeal filed July 27, 2006. Please charge our credit card (see attached form PTO-2038) for the Appeal Brief fee of \$500.00.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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**Date: September 26, 2006**

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Docket No.: K-0382

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**APPEAL BRIEF**

U.S. Patent and Trademark Office  
Customer Window, Mail Stop Appeal Brief-Patents  
Randolph Building  
401 Dulany Street  
Alexandria, Virginia 223134

Sir:

This Appeal is taken from the rejection of claims 1-20 as set forth in the Office Action dated April 3, 2006 (hereinafter the Office Action). In accordance with 37 C.F.R. §41.37, Applicant addresses the following items.

**REAL PARTY IN INTEREST**

The real party in interest is the assignee LG-Nortel Co. Ltd., The assignment document is recorded at Reel 012412 and Frame 0184.

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### **RELATED APPEALS AND INTERFERENCES**

On information and belief there are no other appeals and interference which will directly affect or be directly affected by or having any bearing on the Board's decision in the pending appeal.

### **STATUS OF THE CLAIMS**

This is an appeal from the final rejection dated April 3, 2006 of claims 1-20. No other claims are pending.

### **STATUS OF AMENDMENTS**

All Amendments filed in this application have been entered. A copy of the appealed claims 1-20 are provided in the attached Claims Appendix.

### **SUMMARY OF THE CLAIMED SUBJECT MATTER**

As stated in 37 C.F.R §41.37(c)(v), Applicant is providing the following explanation of each of the independent claims 1 and 11 involved in this appeal. This explanation refers to the specification and drawings. The following is merely an example summary and is not intended to be a discussion of the full and entire scope of the claims. Other interpretations, configurations and embodiments are also within the scope of the pending claims.

**Independent Claim 1**

Independent claim 1 recites a method of converting AAL2 cells in an ATM network system. For example, Fig. 6 shows a flowchart for converting AAL2 cells to AAL5 cells. See also paragraph 0047. The method may include (a) receiving one or more AAL2 cells that include a Common Part Sublayer (CPS) packet including one of N data subsets of an original user data set. For example, Fig. 6 shows receiving one or more AAL2 cells. See also paragraph 0048.

The method may also include (b) extracting said CPS packet from said one or more AAL2 cells received in (a). For example, Fig. 6 shows extracting the CPS packet. See also paragraph 0049.

Further, the method may include (c) generating an AAL5 cell by adding an ATM header to said data subset included in said CPS packet. For example, Fig. 6 shows generating an AAL5 cell. See also paragraph 0051.

Still further, the method may include (d) storing intermediate CRC and length values of said data subset included in said AAL5 cell generated in (c) in a memory without storing the data subset of the generated cell. For example, Fig. 6 shows storing CRC/length. See also paragraph 0052.

Even further, the method may include (e) repeating (a) to (d) until said CPS packet extracted in (b) is a final CPS packet that includes an *Nth* data subset having its size of *n* bytes. For example, Fig. 6 shows the process repeating. See also paragraph 0053.

**Independent Claim 11**

Independent claim 11 recites a method of converting AAL5 cells in an ATM network system. For example, Fig. 8 shows a flowchart for converting AAL5 cells to AAL2 cells. See also paragraph 0062. The method may include (a) receiving a first AAL5 cell that includes a first payload including a first data subset of an original user data set. For example, Fig. 8 shows receiving a first AAL5 cell. See also paragraph 0063.

The method may also include (b) storing the first payload in a memory if the first cell is not a final AAL5 cell. For example, Fig. 8 shows storing the first payload. See also paragraph 0064.

Further, the method may include (c) receiving a next AAL5 cell that includes a next payload including a next data subset of the original user data set. For example, Fig. 8 shows receiving a next AAL5 cell. See also paragraph 0065.

Still further, the method may include (d) generating a CPS packet by adding a packet header to the payload stored in the memory if said AAL5 cell received in (c) is not the final AAL5 cell. For example, Fig. 8 shows generating a CPS packet. See also paragraph 0066.

Even further, the method may include (e) emptying the memory and storing the next payload in said memory. For example, Fig. 8 shows storing the next payload. See also paragraph 0066.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Claims 1 and 2 stand rejected under 35 U.S.C. §103(a) as being unpatentable over admitted Prior Art (hereinafter “APA”) in view of U.S. Patent No. 5,642,347 (hereinafter “Buckland”). Claims 3, 4 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of Buckland and further in view of U.S. Publication No. 2005/0238027 A1 (hereinafter “Skarpness”). Claims 5, 8, and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of Buckland and further in view of U.S. Patent No. 5,867,509 (hereinafter “Tanaka”). Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over admitted APA in view of U.S. Patent No. 6,711,126 (hereinafter “Besset-Bathias”). Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable APA in view of U.S. Patent No. 6,449,254 (hereinafter “Hadjiahmad”). Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of U.S. Patent No. 5,805,821 (hereinafter “Saxena”). Claims 12 and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of Saxena and further in view of Tanaka. Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over APA in view of U.S. Patent No. 6,185,209 (hereinafter “Wicklund”). Appellant believes that each of the claims stands and falls separately from one another.

### ARGUMENTS

The present application contains two independent claims, namely independent claims 1 and 11. These claims contain different features as may be evidenced by the specifically claimed features and as may be pointed out below. For ease of illustration and discussion, similar types of claims (or claim features) may be discussed with respect to each other. This is not an admission that the claims are the same or that they stand or fall together. Rather, this is an attempt to narrow the number of issues and to limit the number of arguments. While arguments may be similar for different claims, it should be understood that differently claimed features are expressly used.

Appellant asserts that none of the cited references, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of pending claims 1-20 of the present application. Appellant respectfully requests that all current rejections be withdrawn and the decision of the Examiner be reversed based on the following.

#### 35 U.S.C. §103 Rejections

All rejections have been based on a combination of references being asserted by the Examiner under 35 U.S.C. §103(a). The ultimate determination of obviousness under §103 is a question of law. See, In re Leuders, 111 F.3d 1569, 1571, 42USPQ2d 1481, 1482 (Fed. Cir. 1997). The factual predicates underlying an obviousness determination include the scope and content of the prior art, the differences between the prior art and the claimed invention,

and the level of ordinary skill in the art at the time of the invention. See, Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH, 139 F.3d 877, 881, 45 USPQ2d 1977, 1981 (Fed. Cir. 1998).

To reject claims in an application under Section 103, an Examiner must show an un rebutted prima facie case of obviousness. See, In re Deuel, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. See, In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). It is respectfully submitted that the Examiner has not met the required legal burden as set forth by the courts to substantiate valid rejections under 35 U.S.C. 103(a).

Appellant asserts that the references cited by the Examiner in the Office Action do not disclose or suggest the limitations in the claims of the present application. Moreover, the Examiner has failed to show a proper motivation to combine the cited references and, therefore, the Examiner has not made a proper prima facie case of obviousness for any of the rejections.

### **Independent claim 1**

Regarding claim 1, Appellant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of, inter alia, converting AAL2 cells in an ATM network system that includes generating an AAL5 cell by adding an ATM header to the data subset included in the CPS



packet, and storing intermediate CRC and length values of the data subset included in the AAL5 cell generated in a memory without storing the data subset of the generated cell. The Examiner admits that the APA does not disclose or suggest storing intermediate CRC and length values of the data subset included in the AAL5 cell generated in a memory without storing the data subset of the generated cell, but asserts that Buckland discloses these limitations at column 2, lines 47-48, column 3, lines 61-65, column 2, lines 25-26, column 4, lines 38-39, and column 1, lines 63-65. However, these portions of Buckland merely disclose that the reassembly circuit 3 is shown in Figure 1 as pipelined AAL5 circuitry that a data integrity checker receives RX data and an intermediate CRC calculation tally and the SRAM stores the ongoing CRC tally for each application specific packet, that the system of Buckland includes an apparatus for counting bites following a receipt of the signal, and for providing an outward signal for reception by the ASIC indicating that valid bites of an ATM cell are being transferred, that the bite count is applied to the payload identifier which receives the RX data signal and is used to extract specific contents from each cells such as an indication of the end of each packet, and that intermediate data buffering is not required in Buckland, thus eliminating the problem of delays due to storage of data in memory. These portions of Buckland have nothing to do with generating an AAL5 cell, or storing intermediate CRC and length values of the data subset included in the AAL5 cell generated in a memory without storing the data subset of the generated cell, as recited in the claims of the present application. The mere disclosure in Buckland that the reassembly circuit is shown as AAL5 circuitry, does not disclose or suggest these limitations in the claims of the

present application. Further, counting bites, storing a length value to be applied to a payload, and not needing data buffering has nothing to do with storing intermediate CRC and length values of a data subset included in an AAL5 cell without storing the data subset of the generated cell. Buckland simply relates to transferring data from an ATM physical device to an application specific circuit. These discreet portions of Buckland cited by the Examiner have nothing to do with the limitations in the claims of the present application.

Moreover, since the Examiner's rejection depends on a combination of prior art references, APA and Buckland, there must be some teachings, suggestion or motivation to combine the references. See, In re Geiger, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987). Further, "[w]hen determining the patentability of a claimed invention which combines two known elements, 'the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" See, In re Beattie, 974 F.2d 1309, 1311-12, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992) (quoting Lindemann Maschienfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984)). This does not exist here. There is nothing in the prior art to suggest the desirability, and thus the obviousness, of making this combination.

Appellant submits that one of ordinary skill in the art would have no motivation to combine the APA with Buckland. The APA is related to transmitting cells and specifically converting between AAL2 cells and AAL5 cells all occurring in an ATM network system, whereas in contrast, Buckland relates to reassembly of data transfer between an ATM device and

an application specific circuit (ASIC) that provides an indication to the ASIC of invalid data. The APA and Buckland are directed to two entirely different concepts and problems. The combination of the APA and Buckland makes no sense because the key portion of Buckland, the reassembly unit 3, has nothing to do with conversion, and as disclosed in Buckland, comprises only AAL5 circuitry. Appellant submits that there is no teaching, suggestion or motivation in either one of these references to combine these references with each other. Further, as has been shown, the combination of the APA and Buckland fails to achieve the limitations in the claims of the present application.

### **Independent claim 11**

Regarding claim 11, Appellant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of, inter alia, converting AAL5 cells in an ATM network that includes generating a CPS packet by adding a packet header to the payload stored in the memory if the AAL5 cell received is not a final AAL5 cell, and emptying the memory and storing the next payload in the memory. The Examiner admits that the APA does not disclose or suggest emptying the memory and storing the next payload in the memory, but asserts that Saxena discloses these limitations in column 15, lines 35+ and column 17, lines 10-11. However, as noted from the description of Saxena above, Saxena has nothing to do with AAL5 cells in an ATM network system, or converting AAL5 cells, as recited in the claims of the present application. The portions of Saxena et al. cited by the Examiner merely disclose details regarding the just-in-time scheduling

technique used in both the communications nodes 14 and the storage nodes 16 and that when the buffer empties, the communication node 14 schedules the next input. However, mere disclosure of a buffer emptying and scheduling a next input without more, does not disclose or suggest anything related to a CPS packet being generated by adding a packet header to a payload, included in an AAL5 cell, stored in a memory if the AAL5 cell received is not a final AAL5 cell and emptying the memory and storing the next payload, received in a AAL5 cell, in the memory, as recited in the claims of the present application. Saxena et al. relates to a video optimized media streamer user interface employing non-blocking switching to achieve isochronous data transfers, and has nothing to do with converting AAL5 cells or storing payloads included in AAL5 cells in a memory and emptying the memory and storing the next payload included in a AAL5 cell in the memory.

Moreover, since the Examiner's rejection depends on a combination of prior art references, APA and Saxena, there must be some teachings, suggestion or motivation to combine the references. Appellant submits that clearly one of ordinary skill in the art would have no motivation to combine the APA with Saxena et al. since these are each directed to different technologies and to solving different problems. The media streamer, disclosed in Saxena et al., has no place or function or purpose or benefit in converting AAL5 cells in an ATM network, as disclosed in the APA. Appellant submits that there is no teaching, suggestion or motivation in either one of these references to combine these references with each other. In addition, this combination fails to achieve the limitations in the claims of the present application.

**Dependent Claim 3**

Appellant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of (g) generating an  $N$ th AAL5 cell corresponding to the final CPS packet by adding a trailer containing the total values to a payload containing the  $N$ th data subset if  $1 \leq n \leq 40$ . The Examiner admits that neither the APA nor Buckland disclose these limitations, but asserts that Sharpness discloses these limitations at page 3, paragraph 30, lines 12-15. However, these portions merely disclose that when open space left in the current cell exceeds 8 bytes, the open space, except for the last 8 bytes, is filled with padding, and after padding, the final 8 bytes of the cell are filled with trailer data including AAL5 and the final CRC. This is not generating an  $N$ th AAL5 cell corresponding to the final CPS packet by adding a trailer containing the total values to a payload containing the  $N$ th data subset if  $1 \leq n \leq 40$ , as recited in the claims of the present application.

**Dependent Claim 4**

Appellant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of (h) generating an  $N$ th AAL5 cell that includes the  $N$ th data subset if  $41 \leq n \leq 48$  and (i) generating an  $(N+1)$ th AAL5 cell that includes a trailer containing the total values. The Examiner admits that neither the APA nor Buckland disclose these limitations, but asserts that Sharpness discloses these limitations at page 3, paragraph 30, lines 5-15. However, as noted

previously, these portions merely disclose that open space left in the current cell exceeds 8 bytes, the open space, except for the last 8 bytes, is filled with padding, and after padding, the final 8 bytes of the cell are filled with trailer data including AAL5 and the final CRC. This is not generating an  $N$ th AAL5 cell that includes the  $N$ th data subset if  $41 \leq n \leq 48$  and generating an  $(N + 1)$ th AAL5 cell that includes a trailer containing the total values, as recited in the claims of the present application.

### **Dependent Claim 5**

Appellant submits that none of the cited references, taken alone or in any proper combination, disclose suggest or render obvious the limitations in the combination of this claim of the total values being calculated by using each intermediate CRC value and length value stored in the memory and last CRC and length values of the  $N$ th data subset. The Examiner admits that neither the APA nor Buckland disclose these limitations, but asserts that Tanaka discloses these limitations at col. 3, lines 20-31. However, these portions merely disclose that the CRC calculation is performed for the currently received data using the value read out from the management data memory 106 as an initial value, and the calculation result is written back to the management data memory 106 upon completion of reception. If the received ATM cell is normal and indicates the end of the frame, the calculation result is checked by the checking circuit 105 when the CRC calculation up to data at the end of the cell is completed, and if the calculation result is in agreement with  $V(x)$  above, the absence of errors is determined, thus ending the reassembly processing of the frame. This is not the total values being calculated by

using each intermediate CRC value and length value stored in the memory and last CRC and length values of the *Nth* data subset, as recited in the claims of the present application.

### **Remaining Claims**

Each of the independent claims is believed to define patentable subject matter as discussed above. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for these additional reasons. In addition, the dependent claims recite features that further and independently distinguish over the applied references. Appellant respectfully submits that the other remaining claims each stand and fall separately from the respective claims from which they depend.

Accordingly, Appellant asserts that neither APA, Buckland, Skarpness, Tanaka, Besset-Bathias, Hadjiahmad, Saxena nor Wicklund, taken alone or in any proper combination, disclose, suggest or render obvious the limitations in the combination of each of claims 1-20 in the present application. Appellant respectfully requests that these rejections be reversed and that these claims allowed.

### **CLAIMS APPENDIX**

The attached Claims Appendix contains a copy of the claims involved in the appeal.

**EVIDENCE APPENDIX**

Applicant has not provided any evidence with this appeal and therefore an Evidence Appendix is not provided.

**RELATED PROCEEDINGS APPENDIX**

Applicant is not providing copies of related decisions and therefore a Related Proceeding Appendix is not provided.



**CONCLUSION**

It is respectfully submitted that the above arguments show that each of claims 1-20 are patentable over the applied references. Based at least on these reasons, it is respectfully submitted that each of claims 1-20 defines patentable subject matter. Applicant respectfully requests that the rejections of claims 1-20 set forth in the April 3, 2006 Office Action be withdrawn and that these claims be allowed.

Respectfully submitted,  
FLESHNER & KIM, LLP



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**Date: September 26, 2006**

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### CLAIMS APPENDIX

1. (Previously Presented) A method of converting AAL2 cells in an ATM network system, the method comprising:

(a) receiving one or more AAL2 cells that include a Common Part Sublayer (CPS) packet including one of  $N$  data subsets of an original user data set;

(b) extracting said CPS packet from said one or more AAL2 cells received in (a);

(c) generating an AAL5 cell by adding an ATM header to said data subset included in said CPS packet;

(d) storing intermediate CRC and length values of said data subset included in said AAL5 cell generated in (c) in a memory without storing the data subset of the generated cell; and

(e) repeating (a) to (d) until said CPS packet extracted in (b) is a final CPS packet that includes an  $N$ th data subset having its size of  $n$  bytes.

2. (Previously Presented) The method of claim 1, further comprising (f) calculating total CRC and length values of said original user data set.

3. (Previously Presented) The method of claim 2, further comprising:

(g) generating an  $N$ th AAL5 cell corresponding to said final CPS packet by adding a trailer containing said total values to a payload containing said  $N$ th data subset if  $1 \leq n \leq 40$ .

4. (Previously Presented) The method of claim 2, further comprising:  
(h) generating an  $N$ th AAL5 cell that includes said  $N$ th data subset if  $41 \leq n \leq 48$ ;  
and  
(i) generating an  $(N + 1)$ th AAL5 cell that includes a trailer containing said total values.
5. (Original) The method of claim 2, wherein said total values are calculated by using each intermediate CRC value and length value stored in said memory and last CRC and length values of said  $N$ th data subset.
6. (Previously Presented) The method of claim 1, wherein each CPS packet extracted in (b) includes a CPS packet header including a UUI field set to 26.
7. (Previously Presented) The method of claim 1, wherein each AAL5 cell generated in (c) includes an ATM header including a PTI field set to "000".
8. (Original) The method of claim 5, wherein said total CRC value of said original user data set is calculated by adding each intermediate CRC value stored in said memory with said last CRC value of said  $N$ th data subset included in said final CPS packet.

9. (Previously Presented) The method of claim 5, wherein said total length value of said original user data set is calculated by adding each intermediate length value stored in said memory with said last length of said *Nth* data subset included in said final CPS packet.

10. (Previously Presented) The method of claim 3, wherein said payload of said *Nth* AAL5 cell generated in (g) includes  $(40 - n)$  zeros.

11. (Previously Presented) A method of converting AAL5 cells in an ATM network system, the method comprising:

(a) receiving a first AAL5 cell that includes a first payload including a first data subset of an original user data set;

(b) storing said first payload in a memory if said first cell is not a final AAL5 cell;

(c) receiving a next AAL5 cell that includes a next payload including a next data subset of said original user data set;

(d) generating a CPS packet by adding a packet header to said payload stored in said memory if said AAL5 cell received in (c) is not said final AAL5 cell; and

(e) emptying said memory and storing said next payload in said memory.

12. (Previously Presented) The method of claim 11, further comprising:

(f) recording the length of said payload included in said generated packet;

(g) generating one or more AAL2 cells corresponding to said CPS packet generated; and

(h) repeating (c) to (g) until said next AAL5 cell received in (c) is said final AAL5 cell that includes a final payload.

13. (Previously Presented) The method of claim 12, further comprising (i) determining a final length by subtracting each length recorded in (f) from a total length of said user data set, said total length being included in said final AAL5 cell.

14. (Previously Presented) The method of claim 13, further comprising:

(j) generating a CPS packet by adding a packet header to said payload recently stored in said memory in (e) if said final length is greater than 48;

(k) extracting a final data subset of said original user data set from said final payload; and

(l) generating a final CPS packet by adding a packet header to said extracted final data subset.

15. (Previously Presented) The method of claim 14, further comprising:

generating one or more AAL2 cells corresponding to said packet generated in (j);

and

generating one or more AAL2 cells corresponding to said final packet generated in (l).

16. (Previously Presented) The method of claim 13, further comprising:  
extracting a final data subset of said original user data set from said payload recently stored in said memory if said final length is less than 49; and  
generating a final CPS packet by adding a packet header to said extracted final data subset.

17. (Previously Presented) The method of claim 16, further comprising generating one or more AAL2 cells corresponding to said final CPS packet.

18. (Original) The method of claim 11, wherein said final AAL5 cell includes its PTI field set to "001".

19. (Original) The method of claim 14, wherein said final CPS packet generated contains its UUI field set to 27.

20. (Original) The method of claim 16, wherein said final CPS packet generated contains its UUI field set to 27.